

APPEAL NO. 040582
FILED APRIL 26, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 12, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury, and since the claimant did not sustain a compensable injury, no period of disability could be established. The claimant appeals both the injury and disability determinations on sufficiency of the evidence grounds. The claimant additionally alleges that her attorney did not put in the proper evidence to support her position. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

We first address the claimant's contention that her attorney did not put in the proper evidence to support her position. In Texas Workers' Compensation Commission Appeal No. 941271, decided October 31, 1994, the Appeals Panel stated that as a general matter it did not normally review competency of a properly licensed attorney or that attorney's trial tactics, that there are other forums for determining questions of that nature, and the fact that a claimant was not successful in the prosecution of his or her claim does not warrant the Appeals Panel's reexamination of the attorney's tactics or judgment in presenting the case. Therefore, we will not review the competency of the attorney who represented the claimant at the hearing.

The claimant had the burden to prove that she sustained a compensable injury as defined by Section 401.011(10) and that she had disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH on the issue of whether the claimant sustained a compensable injury. The hearing officer noted in her Statement of the Evidence that the issue of credibility played a major role in sorting the facts of this case and she was not persuaded that the claimant met her burden of proof on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determination that the claimant did not sustain a compensable injury is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **BRITISH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CHARLES HARDY
3535 TRAVIS, SUITE 300
DALLAS, TEXAS 75204.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge